UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/SR.38
1 March 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 38th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 24 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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GE.94-11348 (E)

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

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1. The CHAIRMAN said that he wished to announce that the Commission had, in closed session, examined the human rights situation in the following nine countries under Economic and Social Council resolution 1503 (XLVIII): Armenia, Azerbaijan, Chad, Estonia, Germany, Kuwait, Rwanda, Somalia and Viet Nam.

2. In conformity with paragraph 8 of Council resolution 1503 (XLVIII), the members of the Commission should make no reference in public debate to the confidential decisions taken concerning those countries nor to any confidential material relating thereto.

3. Since, however, it was the practice of the Commission to disclose the names of the countries which it had considered under the procedure of Council resolution 1503 (XLVIII), it would seem equitable to indicate that the Commission had decided to discontinue consideration of the human rights situation in Estonia, Germany, Kuwait, Somalia and Viet Nam.

STATEMENT BY THE DEPUTY PRIME MINISTER AND MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF CROATIA

4. The CHAIRMAN invited the Deputy Prime Minister and Minister for Foreign Affairs of the Republic of Croatia to address the Commission.

5. Mr. GRANIČ (Croatia) said the fact that he had been personally involved in all the negotiations regarding humanitarian issues during the war in Croatia and was currently engaged in helping to arrange for the exchanges of detainees, civilians and prisoners of war in Bosnia and Herzegovina had reinforced his belief that no effort should be spared to uphold fundamental human values, the first of which was the right of every human being to life in human dignity.

6. His statement coincided with a juncture when history in his part of Europe - the former Yugoslavia - was once again being made. The inhabitants of that area might seize one of the numerous opportunities to reach out for the desperately needed peace or might plunge still more deeply into a war that had already unleashed unspeakable acts of brutality and horror of ethnic

cleansing and genocide in both his own country and the neighbouring Bosnia and Herzegovina. It was to be hoped that long awaited resolute international action, including military intervention if necessary, would convince the proponents of the policy of chauvinistic hatred and territorial conquest to accept a just peace and respect for international law.

7. It was not by chance that, in the very first days of its independence, the Republic of Croatia had acceded to all the key conventions dealing with international humanitarian law and confirmed its acceptance of all the basic documents of the United Nations, the Conference on Security and Cooperation in Europe, and the Council of Europe. It was not by chance either that his country had introduced into its Constitution and legislation all the international standards based on the Universal Declaration of Human Rights and the human rights treaties. Furthermore, Croatia had been the first non-member to state its readiness to comply with the mechanism of international control of human rights in accordance with Council of Europe resolution 93/6.

8. The generosity in times of extreme hardship and the openness of heart with which the Croats had accepted continuing flows of refugees and displaced persons, including hundreds of thousands of Muslims from Bosnia and Herzegovina, could be considered a testimony of their determination and aspiration. Croatia had also acted as host to many international organizations, United Nations bodies, humanitarian agencies and human rights activists. It had also facilitated their activities aimed at monitoring and defending human values and helping the needy. Nearly all the field missions of the Special Rapporteur on the former Yugoslavia had used Croatia as base.

9. However, his Government was fully aware of its shortcomings with regard to the status of human rights in its country. Much remained to be done, not only to meet international standards but also to achieve its own people's aspirations. So-called objective factors were not and should not be used as an excuse for any human rights violation and his Government had always strongly condemned all abuses of human rights and violations of humanitarian law that had occurred anywhere, including its own country.

10. It was important, however, to bear in mind the facts that one third of his country's territory was still occupied by Serbian forces; the war had inflicted dreadful casualties and damage; and the burden of maintaining approximately 550,000 refugees and displaced persons, amounting to 12 per cent of the total population, was costing his country about $46 million a month. The resulting economic difficulties, social tensions and the increase in crime should be taken into account.

11. Nevertheless, his Government was doing its utmost to prevent criminal acts and violations of humanitarian law in the territories under its control. Allegations of human rights violations were followed up promptly and 227 persons suspected of involvement in crimes of terrorism were currently being investigated.

12. He did not claim that there were no human rights violations in Croatia or that some serious criticism that had been made was unfounded. What he wanted

to do was to confirm once again that the Government of Croatia did not approve of such incidents and did not contribute in any way to the creation of a climate conducive thereto. Once the threat to his country's independence and territorial integrity had been removed and the war had ended, the human rights situation there would improve dramatically. That was his Government's objective and he invited the Commission to assist it by promoting cooperation and helping to establish a just peace.

13. In one of the draft resolutions being circulated among the members of the Commission, there was a reference to alleged "discriminatory treatment of Serbs and Muslims" in his country. Such allegations were totally unjustified in view of the heavy burden of the war and of the Serbian aggression to which Croatia was still exposed. In that connection, he reminded the Commission of all the care, help and aid Croatia had provided for Muslim refugees over the past two years.

14. The normalization of relations with Croatia's Serbian minority, primarily those living in the United Nations Protected Areas (UNPAs), was the key to stability there and to Croatian-Serbian relations in general. His Government had offered solutions and put forward proposals that would guarantee the Serbian minority local autonomy in the areas where they were in the majority and cultural autonomy within Croatia as a whole. In addition, the Croatian Parliament had passed an Act granting amnesty to all persons except those who had committed war crimes against Croatia and, as a result, a number of Serbs and other non-Croats had been released.

15. The time had come to lay down arms and negotiate a lasting settlement that would bring peace and prosperity to all. In pursuing that objective, however, his Government would not compromise the territorial integrity of the country, which had been confirmed by the Security Council and all relevant international bodies.

16. His Government continued to support the Geneva negotiations, the proposals on the Union of Bosnia and Herzegovina, the Action Plan of the European Union and all diplomatic initiatives, particularly the latest United States-European Union initiative, that might produce positive results and restore peace to the region. With that aim, it had recently engaged in serious negotiations with the Bosnian Muslims, convinced that the agreement clearly corresponded to the long-term strategic interest of the two peoples, both of which had been victims of Serbian aggression.

17. The Commission and its Special Rapporteur on the former Yugoslavia had rightly condemned all massive violations of human rights, particularly ethnic cleansing. His Government joined in such condemnation, regardless of the ethnic or national origin of the perpetrators of those crimes against humanity. However, it should not be forgotten who had started that horrible war. In some cases, ethnic cleansing had completely wiped out Croat communities which had lived for centuries in parts of Croatia itself or in Central Bosnia. Ethnic cleansing of United Nations Protected Areas (UNPAs) in Croatia persisted and the remaining non-Serb population was exposed to harassment, terror and forced expulsion. He hoped that the international community would make every effort to facilitate the search for missing persons in the territories of the former Yugoslavia, including over 7,600 Croats.

18. The impetus provided by the World Conference on Human Rights must be followed up by appropriate streamlining of United Nations human rights mechanisms. His Government had strongly supported the appointment of the High Commissioner for Human Rights and was sure that he would be equal to that challenge. It also hoped that Mr. Mazowiecki would continue to serve as Special Rapporteur on the former Yugoslavia and that his activities and recommendations would be more strongly supported.

STATEMENT BY THE PRESIDENT OF THE ASSEMBLY OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

19. The CHAIRMAN invited the President of the Assembly of the Former Yugoslav Republic of Macedonia to address the Commission.

20. Mr. ANDOV (Former Yugoslav Republic of Macedonia) said that he was honoured to be the first representative of his country to address the Commission, whose work was taken very seriously by his Government and people. Having been admitted as a Member State in 1993, his country had participated actively in the World Conference on Human Rights. He wished to emphasize the success of that Conference and to welcome the appointment of the United Nations High Commissioner for Human Rights. His delegation was in favour of the idea of turning the annual sessions of the Commission into regular United Nations conferences on human rights and hoped that that would soon be the case.

21. His Government welcomed the emphasis placed by the Vienna Conference on the rights of children, women, indigenous peoples, refugees and displaced persons, and on the right to development. It also agreed that all human rights were of equal value. However, not enough attention had been devoted to the rights of national, ethnic, religious and linguistic minorities in view of the fact that unresolved issues concerning minorities, both recognized and unrecognized, would be a chief cause of war in the future. The United Nations campaign against racial discrimination could not be termed successful as long as ethnic cleansing and non-recognition of minorities continued.

22. His delegation had thus supported the establishment of a High Commissioner on National Minorities within the framework of the Conference on Security and Cooperation in Europe (CSCE). The report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly, would provide valuable input in that regard.

23. The year 1993 would be remembered for its achievements in the field of human rights, including the adoption of the Vienna Declaration and Programme of Action, the decision to appoint a High Commissioner for Human Rights and the adoption of the Declaration on the Elimination of Violence against Women. Most important of all had been the achievement of consensus that human rights were universal; that all kinds of rights - political, civil, economic, social and cultural and the right to development - were equally important; and that

the international community's concern about human rights situations in various countries did not represent interference in their internal affairs. It was to be hoped that the promotion of human rights would be as effective and non-politicized as possible.

24. Brutal violations of all rights, starting with the right to life, were occurring in his region. The failure of the international community to stop the war had strengthened the hand of nationalists who spread their doctrine of selfishness and the negation of others through ethnic cleansing and other violations of international humanitarian law. In that connection, the Special Rapporteur's report was very stirring. It was to be hoped that a solution would be reached through negotiation, but there was serious danger that disaster would come of certain Balkan regimes' determination to resolve their problems through pressure, blockades, threats and force.

25. In view of the importance of preventive activities, United Nations peace-keeping forces and United States troops had been stationed in his country. A representative from the Centre for Human Rights and a special mission of the Conference on Security and Cooperation in Europe (CSCE) were also monitoring the situation there.

26. The Former Yugoslav Republic of Macedonia attached great importance to good relations with its neighbours. His Government hoped that the international community would be able to prevent unilateral acts taken by neighbouring countries with the aim of destabilizing his country. In seeking its independence through peaceful means, the Former Yugoslav Republic of Macedonia had enjoyed the support of the international community and of the whole of Europe, with the exception of one country. Had that peaceful approach failed, there might have been a war more horrible and more threatening to international peace and security than the war in Bosnia and Herzegovina.

27. His Government hoped that its policy of good-neighbourliness would enjoy continued support from the international community and that its southern neighbour, with which it also sought good-neighbourly relations, would not be permitted to employ punitive unilateral measures against it, or point to its problems as a European developing country, a country in transition and a land-locked country in order to destabilize it and prevent its full integration into Europe.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS;

(e) INTERNATIONAL YEAR OF THE FAMILY (agenda item 11) (continued)

(E/CN.4/1994/34-38, 39 and Corr.1, 40-42, 43 and Add.1, 44 and Add.1, 45 and 74; E/CN.4/1994/NGO/2-4; A/48/579)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued) (E/CN.4/1994/73/Add.1; 75, 76 and Add.1, 77 and Add.1, 78 and Add.1 and 109; A/CONF.157/23)

28. Mr. DRISS (Tunisia), speaking as Chairman of the Tunisian Higher Committee on Human Rights and Fundamental Freedoms, said that his country had acted as host from 13 to 17 December 1993 to the Second International Workshop on National Institutions for the Promotion and Protection of Human Rights, the report of which was before the Commission (E/CN.4/1994/45). The Workshop - organized by the Higher Committee in cooperation with the United Nations Centre for Human Rights - was a continuation of the first Workshop held in Paris in October 1991. It had taken place in the context established by the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights, which had recognized the importance of national institutions and their activities.

29. The purpose of the Tunis Workshop had been to continue the strengthening and establishment of national institutions by building upon the achievements of the earlier meetings. A considerable number of national institutions and ombudsmen, together with representatives of United Nations Member States and non-governmental organizations had participated in the Workshop.

30. The Workshop had defined four parameters for the independence of an institution: the power to hear a matter without referral, with a minimum of procedural guarantees; the power to make its decisions, recommendations and work public, thereby keeping public opinion informed and gaining credibility; sufficient stability in the terms of office of its members, which must be fixed in advance for a period of adequate length; and the provision of sufficient financial resources by means of a long-term budget.

31. It had also been stressed that pluralism was more important than the nature of the legal basis of an institution and that those principles formed a common platform for the relations between the State and civil society, each country being entitled to choose an adequate legal form. The danger of institutions being established to act as a whitewash for Governments was, nevertheless, mentioned.

32. With regard to the nature and form of the relations to be established between national institutions and similar bodies, six proposals had been put forward: preparation of an up-to-date list of all national institutions and similar bodies complying with the principles adopted in October 1991; designation of the United Nations Centre for Human Rights as the coordinating body for exchanges of information; establishment of an institutional link between all or some of the national institutions and similar bodies; periodic and regular joint meetings; preparation of a joint action plan; and publication of an information letter.

33. With respect to the strengthening of relations between national institutions and the Centre for Human Rights, the discussion had dealt with new directions in the Centre's policy towards national institutions in the years to come, in accordance with the Vienna Programme of Action, in respect of technical assistance and advisory services. Officials from the Centre had drawn up a programme for cooperation between the institutions and the Centre designed to continue to promote the establishment and strengthening of national institutions; to make officials from the Centre and experienced experts from national institutions available to States; and to organize regional seminars to overcome obstacles which might hamper the establishment of new national institutions.

34. The Centre had also presented a draft manual on national institutions which would provide detailed information on the nature and activities of the existing national institutions and help the establishment of new ones. It would also suggest different types of cooperation, exchanges of information and joint activities. It was suggested that the proposed coordination committee, which should be a flexible non-bureaucratic organ, should take part in the preparation of the manual. Women would, it was hoped, be adequately represented in the coordination committee and, indeed, in the national institutions themselves.

35. The Tunis Workshop had also dealt with six subjects relating to the protection and promotion of human rights, and had made some recommendations concerning them. They were women's rights, the rights of the child, the rights of disabled persons; education in human rights and democracy; the rights of migrants; and torture and cruel, inhuman or degrading treatment. It was to be hoped that those recommendations and the entire report of the Tunis Workshop would be transmitted to the Economic and Social Council and to the General Assembly.

36. Ms. PARK (Canada) said that the shocking reports of the systematic rape of women in Bosnia had focused international attention on the horrors suffered by women there and, indeed, on the violations of women's human rights around the world. Those violations occurred not only in situations of armed conflict, but also in the community at large and inside the home.

37. The year 1993, however, had been marked by concrete initiatives to ensure women's human rights. On International Women's Day - 8 March 1993 - the Commission had adopted its very first resolution aimed at integrating the rights of women into the human rights mechanisms of the United Nations. Resolution 1993/46 also called for the appointment of a special rapporteur on violence against women. Moreover, the theme of International Women's Day - "Women's Rights as Human Rights" - had been accorded priority by the World Conference on Human Rights, which had affirmed the equal status of women's human rights and the universality of human rights for all women and men. The Vienna Declaration and Programme of Action proposed practical steps to incorporate women's rights into the mainstream human rights mechanisms of the United Nations.

38. The testimony given to the Global Tribunal on Violations of Women's Human Rights, held in parallel with the Vienna Conference, had illustrated the extent to which universal human rights were denied them. The Declaration on

the Elimination of Violence against Women, adopted by the General Assembly in its resolution 48/104, was a key development, for it recognized the long-standing failure of the international community to promote and protect women's human rights. It was for the Commission to make use of that momentum and build on the foundations laid.

39. Violence against women was not specific to any region of the world or to any religious, political or socio-economic group. In her own country, a 1993 report of the Canadian Panel on Violence against Women had shown that it was a widespread phenomenon common to all economic and social groups. A recent Statistics Canada study on violence against women in Canada - the first statistical study of its kind in the world - had confirmed the seriousness of the problem.

40. The appointment of a special rapporteur on violence against women - would be an important step the Commission could take to deal with the problem. However, not only the proposed special rapporteur on women but also all rapporteurs, working groups, treaty bodies and other human rights mechanisms should include violations of women's human rights in their investigations, reports and recommendations.

41. At the current session, her delegation would once again be introducing a resolution on the integration of the rights of women into the United Nations human rights system. That resolution, elaborated in close consultation with other delegations and with non-governmental organizations (NGOs), would renew the call for the appointment of a special rapporteur on violence against women. Support for that resolution would make an invaluable contribution to the realization of women's human rights. It would also represent a major contribution by the Commission to the work of the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women (CEDAW). Peace, democracy and development, the triad highlighted by the World Conference on Human Rights, could not be fully achieved unless the rights of women - half the world's population - were also recognized.

42. Mrs. CARRIZOSA de LOPEZ (Colombia) said she wished to stress the importance of Commission resolution 1993/48 and previous resolutions on the consequences for the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers. The strategic objective of armed groups that committed violent and terrorist acts should be examined within the framework of those resolutions.

43. In Colombia, for example, the guerrilla movement was not seeking an opportunity for political activities, nor was it a spokesman for social conflicts. Its objective was simply to obstruct reconciliation and prolong a situation of instability. Its target was not so much the State as society itself, since its criminal acts of abduction, extortion, executions and terrorism were inflicted on the general population. The result, was an increasing frustration among sectors of the population whose daily activities were hampered by guerrilla activities. The reaction to such activities was often violent also, thereby perpetuating the conflict.

44. In the face of such conflicts and others engendered by drug trafficking, States had the responsibility to restore order, within proper legal bounds and in accordance with their commitments under international covenants and conventions. Beyond the necessary will and resources, however, Governments required the political backing of their people, which, dispirited and sceptical, could often face only the most immediate, day-to-day challenges.

45. Some members of the international community seemed to be worried that such events might be used by the Governments concerned to conceal or excuse human rights violations. That fear might be justified in certain circumstances, but remaining silent did not help those Governments to promote respect for human rights. The failure to condemn the terrorist violence outright might well be seen as a solidarity of sorts with such groups, not so much with the forms that their acts took, as with their motivations.

46. Another area of concern was the enormous disproportion between the attention given in the international media to violations of human rights by States and the virtual absence of information on acts of violence and terrorism perpetrated by various armed groups, which were often well financed through such criminal activities as kidnappings, arms dealing or drug trafficking. Thus, the guerrillas in Colombia had carried out widespread summary executions of peasants accused of being informers or of persons seeking to leave the guerrilla movement.

47. Only one week previously, 35 members of the political movement Esperanza, Paz y Libertad, who had previously been active in the Grupo Guerrillero Ejército Popular de Liberación, had been accused of treason by their former comrades and shot; a bomb had recently been planted in the Ministry for Finance, Bogotá, and in the banana-growing region of Urabá, more than 100 persons had been reported murdered by one or the other of the armed groups. There did not seem to be much interest in bringing those cases to the attention of the public. Clearly, the mass media did not report such news in the same way as when a violation was alleged to have been committed by an agent of the State.

48. Mr. JELONEK (Germany) said that despite the ban on gender-based discrimination embodied in the Universal Declaration of Human Rights, the International Covenants and the Convention on the Elimination of All Forms of Discrimination against Women, the world was still a long way from effectively protecting those rights. Women were in many ways still the victims of gender-specific human rights violations.

49. The international community had been deeply shocked by the reports in the media of mass rape, torture and ethnic cleansing in the former Yugoslavia. There was good reason to hope that the speedy commencement of work by the ad hoc tribunal would be a decisive step towards an effective protection of human rights. Yet those events were merely the tip of the iceberg: women not only suffered from individual violence, but also from social violence as an expression of male dominance and the unequal treatment of women and men.

50. In many countries with marked patriarchal systems, women were denied fundamental rights which were completely natural for men. Girls were sexually mutilated and unwanted new-born girls murdered, often on grounds of cultural

or religious traditions. Employment and educational discrimination were common. In many cases, women had to bear most of the burden of poverty, which in turn made them more likely to fall victim to sexual exploitation, slavery and forced prostitution.

51. For many years, his Government had been urging that greater attention be given to the special forms of human rights violations against women. United Nations instruments to monitor international agreements aimed at the protection of women must be strengthened. With that goal in mind, his delegation would thus become a sponsor of the Canadian draft resolution entitled "Integrating the rights of women into the human rights mechanisms of the United Nations" which proposed the appointment of a special rapporteur on human rights violations against women, with a mandate to collate information about violence against women, suggest measures to prevent such violence and cooperate closely with the other special rapporteurs, the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the treaty bodies.

52. It was not the purpose of the draft resolution to absolve existing United Nations bodies from their responsibility of monitoring violations of women's rights. On the contrary, they were called upon to integrate the protection of those rights into the relevant mechanisms within the United Nations system. He thus urged the Commission to adopt that draft resolution which would shortly be submitted for its consideration.

53. Mr. ZACKHEOS (Cyprus) said that his delegation thanked the Representative of the Secretary-General for his preliminary report on internally displaced persons (E/CN.4/1993/44). It was to be hoped that his work would soon lead to a more pragmatic and accurate definition of the term "displaced persons" that would include individuals who had been expelled from or forced to flee their homes suddenly or unexpectedly in large numbers as a result of foreign aggression and foreign military occupation of their country's territory. That would then cover the case of Cyprus, where some 200,000 Greek Cypriots, representing one third of the population, had been forcibly expelled from their homes in the wake of the 1974 foreign invasion and subsequent occupation of 37 per cent of the country's territory.

54. It was imperative to strengthen the standards of protection of displaced persons. Refugee law applied only to persons who had crossed borders and did not directly address such questions as forcible displacement or return to unsafe areas. The primary concern of his Government was to extend, by analogy, the protection of the provisions of the Convention relating to the Status of Refugees and its Protocol to the displaced persons in Cyprus. It was equally important to ensure the application of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention).

55. The magnitude of the refugee and displaced-person problem called for concerted effort at the local, regional and international levels to address its root causes. The international community must refuse to accept the fait accompli of displacement brought about by armed conflict or foreign aggression. It must insist that individuals be permitted to return to their ancestral homes and property.

56. Humanitarian assistance must be urgently provided to help the persons concerned cope with the tragic consequences of displacement. International assistance should not be limited to food and housing. Refugees and displaced persons must be taught new skills so that they could help themselves and society while awaiting their return home. Special programmes should aim at alleviating the suffering of such vulnerable groups as women, children, the elderly and the disabled, and international humanitarian organizations must improve their coordination and ability to respond to emergencies. It was to be hoped that the High Commissioner for Human Rights would provide leadership in that regard.

57. The case of Cyprus showed that the displacement of populations resulted in gross human rights violations, including forced eviction from homes and land, ill-treatment, violation of the right to shelter and adequate living conditions, the right to work and a host of other economic and cultural rights, as well as the right to development. Particularly cruel was the denial of the right to family reunification.

58. His Government had agreed to discuss the implementation of a package of confidence-building measures, as proposed by the Secretary-General, providing for the return of a number of refugees to their homes in the area of Famagusta under United Nations administration. Although the number was very small and did not allow for the return of all the former residents of Famagusta, it would be a welcome first step towards restoring the human rights of all the persons in that situation.

59. Mr. ZHANG Yishan (China) said that many delegations were in favour of rationalizing the Commission's agenda and work because the Commission had deviated from the purposes and principles of the Charter of the United Nations and had impeded the promotion of international cooperation in the human rights field. His delegation believed that rationalization should quickly put an end to the politicization of human rights, double standards and interference in the internal affairs of countries in the name of human rights, thus enabling the Commission to abide strictly by the principles of the Charter and make a genuine contribution to the realization of human rights.

60. Every year under its agenda item 12, the Commission adopted draft resolutions on the human rights situations in a number of countries. A few delegations self-righteously accused such countries of violating human rights, which their own Governments had supposedly been observing impeccably. The practice of exerting political pressure on countries through outdated resolutions had proven to be counterproductive to the promotion of human rights. The Commission must ensure objectivity and non-selectivity on human rights issues and promote dialogue and cooperation on the basis of mutual respect and equality.

61. In recent years, the number of the Commission's rapporteurs and working groups had grown constantly, even though the International Covenants on Human Rights and the various conventions had their own monitoring mechanisms. The problem of duplication and the lack of coordination was very serious and had not only drained the financial resources of the United Nations but also placed an unnecessary burden on many States. Rapporteurs on civil and political rights made up the large majority, whereas economic, social and cultural

rights were not accorded due attention. Moreover, the representatives of developing countries had repeatedly emphasized the need to appoint rapporteurs in accordance with the principle of equitable geographical distribution. There had been some improvement in that regard in 1993 and his delegation hoped to see further progress in the future.

62. His delegation supported the idea of rationalizing the Commission's agenda so as to keep it focused and to eliminate some unnecessary items. The rationalization process must, however, proceed in tandem with the overall streamlining of the Commission's work and ensure adequate consideration for items of concern to the developing countries.

63. The Commission must build upon the achievements of the World Conference on Human Rights, which had recognized that all rights were universal, indivisible, interdependent and interrelated, and on the Declaration on the Right to Development, which had reaffirmed that development was a universal and inalienable right and an integrated part of fundamental human rights, and must reform its agenda by attaching importance to economic, social and cultural rights and the right to development, thus ensuring a balance between political and civil rights, on the one hand, and economic, social and cultural rights and the right to development, on the other.

64. Mr. TORELLA di ROMAGNANO (Italy) said that, at the most recent session of the General Assembly, his delegation had launched the idea of an international court on human rights. He believed that the Commission was the most appropriate forum for elaborating upon that proposal.

65. The United Nations system of human rights must decide whether to expand legislation further or to focus instead on reassessing the existing rules. Like many other Governments, his own questioned the usefulness of an ongoing, indiscriminate proliferation of conventions. A true comprehensive programme that took into account both the urgency and the importance of further United Nations legislation continued to be lacking. Many paragraphs of the Vienna Convention were a testimony to that state of affairs. The hasty creation of a legal framework in the field of human rights had inevitably resulted in omissions, overlapping and the absence of full and clear coordination.

66. Given the impressive number of human rights provisions, it would be useful to examine whether the United Nations human rights instruments were actually capable of ensuring an effective enjoyment of human rights. A number of United Nations bodies, in particular the International Law Commission, seemed to think that the individual was not only the ultimate beneficiary of human rights norms, but had acquired the legal status of a subject of international rights and duties.

67. States had the primary obligation to grant all individuals under their authority effective means of protection and redress. In that context, judges played an essential role. They were - or should be - fully aware that they had the duty, the power and the authority to enforce international rules that had been "nationalized". In the specific sector of human rights, however, the implementation of international law could not be left solely to national judges and States.

68. As recently as 25 years previously, jurists had still taken the view that, according to the well-established rules of international law, the concrete implementation of the obligation of States in the field of human rights fell within domestic jurisdiction. That opinion had since changed completely. However, while the United Nations system relied upon the monitoring of State compliance with international obligations, there was no possibility for an individual except under article 41 of the International Covenant on Civil and Political Rights, to appeal to an international forum in the event of an alleged violation of a fundamental right by a State.

69. At the regional level, in Europe, the classical shortcoming of the entire international law system, i.e. the absence of an international court, had been overcome. States parties to the European Convention on Human Rights had for the most part accepted the optional clauses concerning the competence of the European Commission of Human Rights and the European Court of Human Rights to hear and decide on complaints lodged by individuals for alleged violations of the Convention. As there seemed to be no conceptual obstacle to assuming that an individual might be held responsible at the international level for violations of international law, there must be a way of giving the individual a real and effective means of appealing to an international court.

70. His delegation thus proposed that the Commission should set up an ad hoc committee to study the feasibility of creating an international system to investigate individual complaints of alleged violations of internationally protected human rights and to take binding decisions thereon. The starting point of such an exercise might be to consider ways of establishing a United Nations human rights court, following the pattern already existing at the regional level. Monitoring systems did not directly assist individuals in their efforts to win recognition for their rights, and a court of law was the only way of establishing a judicial procedure empowered to take decisions binding on both individuals and States.

71. The creation of such a court was a long-term project, and work should begin on the subject without further delay. Needless to say, the legal instrument establishing the court would be binding only upon States that signed and ratified it. There would be no jurisdiction in respect of other States.

72. The effective and wide dissemination of human rights information could be vital: it could awaken the general public to the importance of promoting and protecting human rights and thus lead, in the long run, to a universal culture of human rights. In 1993, the Centre for Human Rights had launched a comprehensive review of its information programmes, which had already yielded some encouraging results. The Centre had reviewed a number of its publications with a view to making them more responsive to the needs of the public and should continue its efforts at rationalization.

73. The Centre had also made significant progress in developing human rights training materials which were audience-specific. Such tools were useful for educating strategic professional groups at the national level and could help strengthen the programme of advisory services and technical assistance. Particularly noteworthy was the Centre's policy of producing those training materials in close cooperation with other United Nations agencies.

74. The financial resources available were still inadequate to meet the needs of the international community, so it was particularly important to coordinate the information activities of the Centre with those of other United Nations bodies and international organizations. In that connection, he welcomed the appointment of the High Commissioner for Human Rights who would have an important role to play as a catalyst for United Nations public information programmes in the field of human rights.

75. As electronically-accessible information was of vital importance in the field of human rights, he welcomed the publication of the Human Rights Bibliography in electronic format. The Centre for Human Rights should continue to explore ways of producing computerized human rights information. As a result of a contribution by his Government, a study on a human rights database and office information management system for the Centre was nearing completion.

76. Mr. MARUYAMA (Japan) said that the positive developments in South Africa and the Middle East would make it possible for the Commission to turn its attention to other equally significant human rights issues, many of which had been highlighted at the World Conference on Human Rights. One issue that was particularly worthy of attention was the human rights of women. The special rapporteur to be appointed must be given a clear mandate to focus on violence against women, in accordance with the wishes of the World Conference and the General Assembly.

77. Another important issue was the rights of refugees and internally displaced persons. The Commission had not hitherto been very active in that area and the Centre for Human Rights lacked the operating experience and the resources to provide assistance to the persons concerned. Nevertheless, the Commission and the Centre could and should play an active role in identifying and making public all violations of human rights and in appealing to the appropriate authorities to provide assistance to the victims.

78. The Commission must also strengthen its efforts in the field of advisory services, which could contribute to reducing human rights violations leading to refugee flows. The establishment of a human rights centre in Cambodia was an important first step in that direction. There were many other countries trying to build new democratic political systems which would promote and protect human rights and, with the cold war behind it, the Commission would be able to play a more constructive role in the difficult process of democratization. His delegation fully supported such efforts and urged the Centre to maintain close contacts with the Governments concerned and the relevant United Nations bodies.

79. He welcomed the General Assembly's decision to increase the human and financial resources of the Centre which, in the past, had not had the resources to fulfil its vital mandate. Also encouraging were the efforts of the Assistant Secretary-General for human rights to increase efficiency and coordination in the field of human rights. The Commission, for its part, should always bear in mind the financial and workload implications of any decision it might take.

80. The adoption of the Vienna Declaration and Programme of Action and the establishment of the High Commissioner for Human Rights had decisively changed the framework within which the Commission for Human Rights would be acting. The international community must endeavour to keep up the momentum and spirit of cooperation built up during the past year.

81. Ms. KOFLER (Austria) said that the United Nations had been engaged in numerous activities to improve the status of women and to promote and protect their rights. A particularly important step forward in that regard was the unanimous adoption by the General Assembly of the Declaration on the Elimination of Violence against Women, a landmark in the international community's attempts to establish norms and to implement fully the Convention on the Elimination of All Forms of Discrimination against Women.

82. The Declaration stressed that violence against women was a major obstacle to equality, to a life of dignity and peace, and to the full enjoyment of human rights and fundamental freedoms. It noted that the majority of acts of violence were committed within the family. It also set forth clearly the obligation of States in that regard.

83. Her Government had a long-standing commitment to combating violence and discrimination and attached particular importance to the protection of human rights in the context of violence against women. In that connection, she noted that with Austrian support, the secretariat of the International Year of the Family had undertaken significant work in the area of domestic violence.

84. The Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development and Humanitarian Affairs had made an essential contribution to combating domestic violence, a subject which had also received attention from the new Commission on Crime Prevention and Criminal Justice. The issue was also to be considered at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

85. The Commission must make greater efforts to eradicate violence against women. When appointing a special rapporteur in that field, the Commission should, first of all, choose an experienced woman for the post and, secondly, provide her with a precise mandate which would include reviewing violence against women and its causes as well as making recommendations for action.

86. The Vienna Declaration and Programme of Action stated that the human rights of women were an integral part of human rights. Violations of the human rights of women had not, thus far, been fully dealt with by the human rights treaty monitoring bodies and related procedures, which needed to incorporate a gender-sensitive approach into their activities. To that end, steps should be taken to increase cooperation between the Commission on the Status of Women, the Commission on Human Rights and the Committee on the Elimination of Discrimination against Women (CEDAW). Regular cooperation between the Centre for Human Rights and the Division for the Advancement of Women would also be welcome.

87. Her Government had always vigorously condemned all violations of human rights and international humanitarian law. One horrifying aspect of the situation in the former Yugoslavia was the widespread sexual violence against

women. That was a conflict that had become a "war against women" at a level never reached before. Her delegation therefore welcomed the establishment of the international tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia, and took it for granted that sexual violence against women would be one of the tribunal's major concerns. It was evident that the victims would have to be treated with sensitivity; experience gained in national courts might be useful in that regard.

88. She was fully confident that the new High Commissioner for Human Rights would help to integrate the human rights of women into the mainstream of United Nations activities.

89. Mr. DAYAL (India) said that the newly-established National Human Rights Commission of India, of which he was a member, had participated in the second International Workshop on National Institutions for the Promotion and Protection of Human Rights, held at Tunis in December 1993. National institutions occupied a unique position and it was time, as the Tunis Workshop had stressed, to ensure that they participated actively in United Nations human rights efforts.

90. National institutions could play an even more vital role if they were set up properly and given adequate powers. At the national level, they provided the middle ground between governments and non-governmental organizations. They could also contribute at the international level by sharing experiences and knowledge.

91. In establishing the National Human Rights Commission, his Government had taken into consideration the Principles relating to the status of national institutions, adopted in Paris in 1991. It had also endeavoured to choose a framework best suited to India's needs at the national level.

92. The statute on which the National Commission was based had sought to provide it with certain essential attributes: a sound constitutional basis; autonomy; transparency in its working methods; the capacity to deal with every aspect of the promotion and protection of human rights; the capacity to deal with the entire range of human rights violations; and the ability to contribute towards creating a culture of human rights.

93. The National Commission was an autonomous body, with its own budget. Members were appointed for a fixed term by the President of the Republic, following recommendations by a committee which included senior Government ministers and leaders of the opposition. The Members had a rank equivalent to that of a Supreme Court judge and could not be removed during their term of office, except by a decision of the Supreme Court. The Commission was empowered to appoint its own investigative staff, which would be directly responsible to it.

94. The National Commission would strive to be as transparent as possible in its proceedings. It was mandated to investigate any complaint concerning human rights violations, including those involving members of the armed forces. It

could provide a copy of its report to the petitioner and make its recommendations public. Full information about the Commission's work would be provided in its annual and special reports.

95. The scope of the National Commission included all the human rights mentioned in the Vienna Declaration and Programme of Action. The Commission could, inter alia, review existing laws and make recommendations in that regard; study treaties and international instruments and make suggestions for their implementation; and promote research and encourage awareness of human rights through publications and training. The Commission would be providing support to non-governmental organizations and institutions working in the field of human rights. It would also be drawing upon the talents of numerous visitors from different parts of India and from abroad.

96. At its first meeting in November 1993, the National Commission had begun suo moto an investigation into an incident in Jammu and Kashmir, involving an action carried out by paramilitary forces and resulting in the death and wounding of civilians. Its recommendations on that matter were currently before the Government. More recently, the Commission had taken notice, on the basis of a complaint, of another case in Jammu and Kashmir where actions by the security forces had resulted in death and injury.

97. In the area of civil liberties, the Commission had asked the State governments of India to report within 24 hours any instance of death or rape in custody. It had already carried out suo moto a number of inquiries into alleged custodial deaths. In one case, the inquiry had led to the suspension and prosecution on criminal charges of a police officer and the awarding of compensatory benefits to the victim's family.

98. The Commission had the power to intervene in court proceedings involving human rights issues and had done so in a case of gender-related violence.

99. Since its establishment, the Commission had received approximately 300 complaints from individuals and organizations relating to a wide variety of human rights matters. The same Act that had established the Commission also provided for the setting up of human rights courts, which would greatly facilitate the prosecution of human rights violations.

100. The Commission had begun its review of the international instruments to which India was a signatory with a view to recommending ways in which existing legislation might be modified to conform more closely to the treaty provisions.

101. In an endeavour to promote a human rights culture, the Commission had made specific suggestions to all political parties in the country with regard to the manner in which they might monitor the conduct of their members in order to further the cause of human rights. Suggestions along those lines had also been sent to the 25 chief ministers of Indian States, to university vice-chancellors and the deans of all the country's law faculties. Contacts had also been made with the armed forces and the police.

102. The Commission had endorsed legislative amendments proposed by the National Commission for Women. It would also, in consultation with other governmental and non-governmental bodies, be examining the subject of child labour and bonded labour with a view to making recommendations for action. It planned to review in situ the human rights situation in various states.

103. Mrs. FERRIOL ECHEVARRIA (Cuba), speaking in exercise of the right of reply, said that, at the Commission's 34th meeting, the representative of the United States of America had pointed out that it was not women who were firing shells in Sarajevo or suppressing democracy in Burma or Cuba. For once, she was able to agree with the views of a United States representative. Indeed, she would even go further and state that no Cuban women were suppressing democracy in Cuba. All Cuban women were part of a revolution which had, for the first time, placed the human condition, and women in particular, at the centre of a political and social plan designed to ensure genuine democracy for all Cubans, not a democracy imposed by the North. Indeed, as the members of the Commission were fully aware, Cuban women had, with the rest of the population, fought for and were still defending the achievements of the revolution.

104. While the United States representative had referred to the situation of women in the four corners of the globe, she had deliberately omitted any mention of her own country, where discrimination against women was rampant in areas such as employment and social benefits, where female children and adolescents were involved in pornography and prostitution, and where female political prisoners were subjected to ill-treatment. The United States was far from being a model for other countries.

The meeting rose at 1.10 p.m.